December 15, 2012

Mr. Thomas C. Marston, Director of Finance
City of San Gabriel
425 South Mission Drive
San Gabriel, CA 91776

Dear Mr. Marston:

Subject: Low and Moderate Income Housing Fund Due Diligence Review

This letter supersedes Finance's original LMIHF DDR determination letter dated November 9, 2012. Pursuant to Health and Safety Code (HSC) section 34179.6 (c), the San Gabriel Successor Agency (Agency) submitted an oversight board approved Low and Moderate Income Housing Fund (LMIHF) Due Diligence Review (DDR) to the California Department of Finance (Finance) on October 15, 2012. Finance issued a LMIHF DDR determination letter on November 9, 2012. Subsequently, the Agency requested a Meet and Confer session on one or more items adjusted by Finance. The Meet and Confer Session was held on November 28, 2012.

Based on a review of additional or clarifying information provided to Finance during the Meet and Confer process, Finance is revising some of the adjustments made in our previous DDR determination letter. Specifically, we are revising the following adjustment.

- Restricted LMIHF totaling $3,100 for funding a Homeless Count project was originally denied because the Agency did not provide a projection of annual revenues and spending requirements to prove retention of these balances is necessary. During the Meet and Confer process, the Agency provided additional information. Upon review of the additional information, Finance determined the Homeless Count LMIHF funds were approved on ROPS I but not expended until the ROPS II period. Therefore, the variance is due to a timing issue and the balances available for distribution to the taxing entities will be revised by $3,100.

However, Finance continues to believe some of the adjustments made to the DDR's stated balance of LMIHF available for distribution to the taxing entities is appropriate. HSC section 34179.6 (d) authorizes Finance to make these adjustments. We maintain the adjustments continue to be necessary for the following reason(s):

- Through the ROPS III Meet and Confer process, Finance maintains the Affordable Housing Monitoring and Administrative Costs totaling $1.7 million is not an enforceable. Finance denied the item as HSC section 34176 (a) (1) states if a city, county, or city and county elects to retain the authority to perform housing functions previously performed by a RDA, all rights, powers, duties, obligations and housing assets shall be transferred to the city, county, or city and county. The administrative costs associated with the housing functions are the responsibility of the housing successor.

The Agency contends the item is an enforceable obligation because the affordable housing agreement for financial assistance is an enforceable obligation as it was executed prior to June 27, 2011. However, the encumbrance for the agreement was listed on the Housing Asset Transfer Form, Exhibit C – Low/Mod Encumbrances and Finance did not object to the transfer. Obligations associated with the former RDA's previous housing obligations are not enforceable obligations. Upon the transfer of the former RDA's housing functions to the new housing entity, HSC section 34176 requires that "all rights, powers, duties, obligations and housing assets...shall be transferred" to the new housing entity. To conclude that such costs should be on-going enforceable obligations of the successor agency could require a transfer of tax increment for life – directly contrary to the wind down directive in ABx1-26/AB1484. Therefore, this item is not an enforceable obligation and not eligible for Low and Moderate Income Housing Funds.

The Agency's LMIHF balance available for distribution to the affected taxing entities has been revised to $1,954,883 (see table below).

LMIHF Balances Available For Distribution To Taxing Entities		
Available Balance per DDR:	$	230,083
Finance Adjustments		
Denied ROPS item:		1,724,900
Requested retained balance not suppported:		0
Total LMIHF available to be distributed:	$	1,954,983

This is Finance's final determination of the LMIHF balances available for distribution to the taxing entities. HSC section 34179.6 (f) requires successor agencies to transmit to the county auditor-controller the amount of funds identified in the above table within five working days, plus any interest those sums accumulated while in the possession of the recipient.

If funds identified for transmission are in the possession of the successor agency, and if the successor agency is operated by the city or county that created the former redevelopment agency, then failure to transmit the identified funds may result in offsets to the city's or the county's sales and use tax allocation, as well as its property tax allocation. If funds identified for transmission are in the possession of another taxing entity, the successor agency is required to take diligent efforts to recover such funds. A failure to recover and remit those funds may result in offsets to the other taxing entity's sales and use tax allocation or to its property tax allocation. If funds identified for transmission are in the possession of a private entity, HSC 34179.6 (h) (1) (B) states that any remittance related to unallowable transfers to a private party may also be subject to a 10 percent penalty if not remitted within 60 days.

Failure to transmit the identified funds will also prevent the Agency from being able to receive a finding of completion from Finance. Without a finding of completion, the Agency will be unable to take advantage of the provisions detailed in HSC section 34191.4. Specifically, these provisions allow certain loan agreements between the former redevelopment agency (RDA) and the city, county, or city and county that created the RDA to be considered enforceable obligations. These provisions also allow certain bond proceeds to be used for the purposes in which they were sold and allows for the transfer of real property and interests into the

Community Redevelopment Property Trust Fund once Finance approves the Agency's long-range property management plan.

In addition to the consequences above, willful failure to return assets that were deemed an unallowable transfer or failure to remit the funds identified above could expose certain individuals to criminal penalties under existing law.

Pursuant to HSC section 34167.5 and 34178.8, the California State Controller's Office (Controller) has the authority to claw back assets that were inappropriately transferred to the city, county, or any other public agency. Determinations outlined in this letter and Finance's Housing Assets Transfer letter dated September 5, 2012 do not in any way eliminate the Controller's authority.

Please direct inquiries to Kylie Le, Supervisor or Michael Barr, Lead Analyst at (916) 445-1546.

Sincerely,

for

STEVE SZALAY
Local Government Consultant

cc: Ms. Robin Scherr, Economic Development Manager, City of San Gabriel
Ms. Kristina Burns, Manager, Los Angeles County Auditor-Controller's Office
California State Controller's Office